



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

27 CIVIL APPLICATION NO. 802 OF 2025
IN FA/144/2024
WITH
CIVIL APPLICATION NO. 14524 OF 2023
IN FA/144/2024

GANESH BAPURAO ALIAS BABURAO KALE
VERSUS
BAJAJ ALLIANZ GENERAL INSURANCE CO LTD AND ORS

...
Advocate for Applicant : Mr. P.C. Mayure h/f Mr. Gavhane
Rameshwar Uddhavrao
Advocate for Respondent No.1 : Mr. Mohit R. Deshmukh
...

CORAM : S. G. CHAPALGAONKAR, J.
Dated : 24.01.2025

PER COURT :-

ORDER ON WITHDRAWAL APPLICATION :-

1. Heard learned Advocates appearing for the parties.
2. Applicant/Original Claimant in MACP No. 01 of 2015 seeks permission to withdraw amount deposited by the respondent Insurance Company in pursuance to the award dated 20.07.2023 passed by the Motor Accident Claims Tribunal Jalna, in MACP No. 01 of 2015.

3. Claimant had filed MACP No. 01 of 2015 for compensation under provisions of Section 166 of the Motor Vehicles Act, alleging that accident occurred due to rash and negligent driving on the part of the driver of the offending vehicle.

4. Insurer contested the claim on the ground of quantum of compensation and valid driving license. Tribunal after evaluation of evidence, accepted the case of Claimant and passed award for Rs. 9,94,500/- along with interest @ 12% p.a. from the date of filing of the petition.

5. Aggrieved, insurance Company filed present appeal mainly on the ground that the driver of insured vehicle was not holding valid driving license, and as such, there is breach of policy, further assessment of compensation is at higher side. Mr. Deshmukh, learned Advocate appearing for Insurance Company submits that though claimant has suffered 25% of permanent disablement, the Claimant claimed 50% loss of earning, which is an excessive. He submits that claimant was driver by profession looking to nature of disability it can't be believed that Claimant suffered loss of earning as is considered

by the Tribunal.

6. Having considered submissions advanced, it is apparent that Claimant suffered injuries in the accident and there is no dispute as to the permanent disablement of Claimant. The only issue required to be considered in the appeal is assessment of compensation, considering percentage of future loss of earnings to Claimant. In that view of the matter, claimant is certainly entitle for partial withdrawal of the amount on certain conditions. Hence the following order :

ORDER

- (i) The Civil Application stands partly allowed.
- (ii) The Claimant is permitted to withdraw 60% of the amount of compensation with accrued interest, deposited by the Insurance Company with the Registry of this Court, on furnishing usual undertaking to the satisfaction of the learned Registrar, (Judicial) of this Court.
- (iii) The Civil Application stands disposed off.

ORDER ON STAY APPLICATION :-

7. Learned Advocate Mr. Deshmukh, appearing for

Insurance Company submits that entire amount of award is deposited with the registry of this Court. The office endorsement supports such contention. In that view of the matter, application stands allowed in terms of prayer Clause (B) and is disposed of.

ORDER IN APPEAL :-

8. Heard learned Advocates appearing for the parties.
9. Call for the record and proceedings.

**(S. G. CHAPALGAONKAR)
JUDGE**

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